

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Duhjuan L. Miller,

Plaintiff

v.

Southwest Gas Corporation, et al.,

Defendants

Case No. 2:23-cv-00583-CDS-NJK

**Order Overruling Plaintiff's Objections to
the Magistrate Judge's Report &
Recommendation, Adopting the R&R,
Denying as Moot Plaintiff's Application to
Proceed in Forma Pauperis, and Closing
this Case**

[ECF Nos. 9, 11, 12, 13, 14]

Pro se plaintiff Duhjuan Miller initiated this lawsuit by applying to proceed in forma pauperis and complaint against defendants Southwest Gas Corporation and Rob Stefani. Appl., ECF No. 1. Magistrate Judge Nancy J. Koppe denied Miller's application as incomplete and ordered that he show cause why this case should not be dismissed for lack of subject-matter jurisdiction, as the parties all seemed to be residents of Nevada for diversity-of-citizenship purposes. Order, ECF No. 3. Miller responded to the order to show cause but failed to allege any information regarding Southwest Gas's state of incorporation or the location of its principal place of business, and it contained no information on the citizenship of Stefani. Resp., ECF No. 8. Because Miller failed to establish a basis for diversity jurisdiction, Judge Koppe found that he failed to satisfy his burden and recommended that this case be dismissed without prejudice. ECF No. 9. Miller now objects to that recommendation. Objs., ECF Nos. 11, 12, 13, 14.

I. Legal Standard

"A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) ("The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo if objection is made, but not otherwise."). A magistrate judge's order

1 should only be set aside if it is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-
2 1(a); 28 U.S.C. § 636(b)(1)(A). A magistrate judge's order is "clearly erroneous" if the court has "a
3 definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*,
4 333 U.S. 364, 395 (1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th Cir. 1992). "An order is
5 contrary to law when it fails to apply or misapplies relevant statutes, case law[,] or rules of
6 procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D. Nev. Sept.
7 16, 2014).

8 II. Discussion

9 Miller's objections are vague and generally non-responsive to Judge Koppe's R&R. Miller
10 argues that he provided this court with evidence to allege breaches of contract and/or fiduciary
11 duties, but his allegations are difficult to discern and—even upon a liberal construction of his
12 arguments—fail to demonstrate any basis for jurisdiction. *See generally*, ECF Nos. 11, 12, 13, 14.
13 Further, Miller did not cite legal authority or raise any argument to suggest any legal error in the
14 analysis performed by the R&R, thus Miller's objections do not demonstrate that the magistrate
15 judge's order was clearly erroneous or contrary to the law.

16 Because Miller fails to meet his jurisdictional burden, this court cannot exercise "judicial
17 [p]ower" over his case. U.S. Const. Art. III, § 2. Thus, for the reasons stated above, I find that the
18 Magistrate Judge's R&R was not clearly erroneous or contrary to law in dismissing Miller's
19 claims without prejudice. I thus overrule Miller's objections and adopt the R&R in its entirety.

20 III. Conclusion

21 IT IS THEREFORE ORDERED that plaintiff's objections to the Report and
22 Recommendation [ECF Nos. 11, 12, 13, 14] are OVERRULED.

23 IT IS FURTHER ORDERED that the Report and Recommendation [ECF No. 9] is
24 AFFIRMED and ADOPTED in its entirety. Accordingly, Miller's complaint is DISMISSED.

1 IT IS FURTHER ORDERED that plaintiff's application to proceed *in forma pauperis* [ECF
2 No. 1] is DENIED as moot.

3 The Clerk of Court shall enter judgment accordingly and close this case.

4 DATED June 28, 2023

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6 Cristina D. Silva
7 United States District Judge
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